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DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Report of the Working Group

Chairman-Rapporteur: Mr. Ronald A. Walker (Australia)

GE.92-11198/4258B

Introduction

1. The Commission on Human Rights, by decision 1985/112 of 14 March 1985, established an open-ended working group to draft a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms. This decision was approved by the Economic and Social Council, in its decision 1985/152 of 30 May 1985. The Working Group held its first to sixth sessions prior to the forty-second to forty-seventh sessions, respectively, of the Commission on Human Rights, its reports to the Commission being contained in documents E/CN.4/1986/40, E/CN.4/1987/38, E/CN.4/1988/26, E/CN.4/1989/45, E/CN.4/1990/47 and E/CN.4/1991/57.

2. The Commission, in its resolution 1991/63 of 6 March 1991, decided to continue at its forty-eighth session its work on the elaboration of the draft declaration. The Economic and Social Council, in its resolution 1991/31 of 31 May 1990, authorized an open-ended working group to meet for a period of two weeks prior to the forty-eighth session of the Commission on Human Rights with a view to continuing the work on the draft declaration.

3. During its seventh session, the Working Group held 15 meetings from 13 to 24 January 1992, and on 18 February 1992. The session was opened by the representative of the Under-Secretary-General for Human Rights, who made an introductory statement.

Election of the Chairman-Rapporteur

4. At its first meeting, on 13 January 1992, the Working Group re-elected Mr. Ronald A. Walker (Australia), Chairman-Rapporteur.

Participation

5. The representatives of the following States members of the Commission attended the meetings of the Working Group, which were open to all members of the Commission: Argentina, Australia, Austria, Bangladesh, Brazil, Bulgaria, Canada, Chile, China, Colombia, Cuba, Czech and Slovak Republic, France, Germany, India, Indonesia, Iran (Islamic Republic of), Japan, Kenya, Mexico, Nigeria, Peru, Portugal, Russian Federation, Senegal, Syrian Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America.

6. The following States, non-members of the Commission, were represented by observers: Belgium, Egypt, Finland, Greece, Haiti, Lebanon, Morocco, Norway, Poland, Sweden, Sudan, Turkey.

7. Switzerland, which is not a member of the United Nations, was represented by an observer.

8. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers at the meetings: Amnesty International, Baha'i International Community, International Commission of Jurists, International Federation for Human Rights and International League for Human Rights.

Documentation

9. The Working Group had before it the following documents:

E/CN.4/1992/WG.6/L.1	Provisional agenda of the presessional open-ended Working Group
E/CN.4/1989/45	Report of the Working Group on its fourth session
E/CN.4/1990/47	Report of the Working Group on its fifth session
E/CN.4/1991/57	Report of the Working Group on its sixth session

Organization of work

10. The Working Group adopted its agenda, as contained in document E/CN.4/1992/WG.6/L.1, at its 1st meeting on 13 January 1992. Before the opening of the meeting, the Chairman expressed sympathy to the family of Mr. Horst Keilau, the late Chief of the Prevention of Discrimination Section of the Centre for Human Rights. The Working Group observed a minute of silence in homage to his memory. The Chairman-Rapporteur then made an opening statement in which he referred to the work carried out to date and reminded the participants that the task of the Working Group was to achieve completion of the first reading during the session. The first reading text would then be circulated to Governments and relevant organizations and a technical review would be undertaken by the secretariat. A second reading should be completed before the 1993 session of the Commission on Human Rights. Regarding the organization of work, he proposed that the Group work on the basis of annex VI to the 1991 report and examine first the preamble and then chapters I to V with a view to reaching agreement on all matters left outstanding from previous sessions. This was agreed.

11. The Chairman-Rapporteur suggested that an informal drafting group be established, as in previous years, in order to make the best use of the time available to the Group. There was no objection to that suggestion. Consequently, it was unanimously decided to re-elect the representative of Norway, Mr. J. Helgesen, as chairman of the informal drafting group.

12. The informal drafting group met after the 2nd, 3rd, 4th, 5th, 7th, 8th, 9th, 10th, 11th and 12th meetings of the Working Group on 15 January and 16, 17, 20, 21 and 22 January 1992.

13. In the course of its seventh session, the Working Group provisionally adopted a first reading text but did not finalize several elements of chapters II, III, IV and V.

Consideration and drafting of articles

A. Preamble

14. At its 1st meeting on 13 January 1992, the Working Group took up consideration of the preamble. The Chairman-Rapporteur noted that there was considerable agreement on the preamble, which had been extensively discussed at previous sessions. He also noted that the paragraphs were assigned letters instead of numbers as the order had not yet been discussed. In that connection, the Chairman suggested that the Working Group should try, first, to finalize agreement on paragraphs A to F on which it had been close to agreement three years ago; second, to examine in detail the wording of paragraphs G, H and I, which were introduced last year and, finally, to determine the order of the paragraphs.

15. The delegation of Turkey said that the State was not the only source of threats against human rights and freedoms, since in all societies groups or organs existed which acted against the elementary principles of human rights and freedoms. It seemed therefore necessary that in a declaration on the rights and responsibilities of individuals, groups and organs of society, the peaceful reaction of some non-governmental organizations or individuals against such acts should be acknowledged and encouraged, and a supplementary concrete meaning given to the rights of individuals to promote human rights and liberties.

16. At the 2nd meeting, on 13 January 1992, the delegation of Turkey introduced a proposal on that subject: to insert the following text (contained in E/CN.4/1992/WG.6/CRP.2) after the bracketed phrase in paragraph G:

> "Including the right to oppose by peaceful means activities and acts perpetrated by any State, group or person and aimed at the destruction of human rights and fundamental freedoms."

17. The delegation of Turkey underlined that that proposal had evolved from paragraph I of the preamble, as contained in annex VI to document E/CN.4/1991/57, and from article 30 of the Universal Declaration of Human Rights.

18. At the same meeting, the delegation of Colombia introduced a revised proposal for paragraph G of the preamble. The text (contained in E/CN.4/1992/WG.6/CRP.1) read as follows:

> "Recognizing the right and responsibility of individuals, groups and institutions to promote and disseminate human rights and fundamental freedoms at the national and international level."

Structure of the preamble

19. In the general discussion that followed, some delegations emphasized issues such as the need to enhance international cooperation in the field of human rights and the prime responsibility of States to promote and to protect human rights. The need to shorten the text of the preamble was urged by

several delegations. It was stated in that connection that the preamble should consist of only those paragraphs which were directly relevant to the objectives of the declaration. In that regard, paragraphs G and C were singled out. Another proposal was to combine the ideas of preambular paragraphs A and D. The delegations of Cuba, China and Syria, while agreeing on the need for reasonable simplification of the text, underlined the importance of not reopening the discussion on some major issues of a conceptual nature upon which agreement had already been reached. The delegations of the International Commission of Jurists, Sweden and Australia felt that the preamble should reflect the core of the declaration without repeating the concepts expressed by other international instruments. Several delegations, including those of Cuba and the United States, made specific suggestions for ordering the paragraphs. Many delegations wished the preamble to start with general considerations and conclude with specifics.

20. Many delegations felt that paragraph G should have a prominent position in the preamble. It was also felt that before deciding on the order of the preambular paragraphs consensus should be reached on the contents of each paragraph.

21. At the 3rd meeting, on 14 January 1992, the Chairman-Rapporteur introduced CRP.5 in which the preambular paragraphs were presented in the following order: G, C, H, B, I, E, D, A, F. He explained that, in order to assist the work of the informal drafting group, CRP.5 was intended to draw attention to the fact that the preambular paragraphs could be divided into three categories: the core (paras. G and C); the existing international legal context (paras. H, B, I) and a selection of other existing international principles (paras. E, D, A, F).

22. At the 6th meeting, on 16 January, the Chairman-Rapporteur introduced CRP.13 (later revised and issued as CRP.13/Rev.1) as an "aid to thinking about the structure of the preamble". The preambular paragraphs were arranged therein in the following order: A, H, B, I, D, F, E, C, G. He said that that order had been suggested to him by the discussion in the Working Group as a possible basis for consensus. He suggested that if that order was adopted, it might be appropriate to amend paragraph G in such a way as to emphasize the fact that it identified the aim of the declaration. That suggestion was not approved by the Working Group.

23. During the discussion regarding the place and the wording of paragraph G, the Chairman-Rapporteur explained that the desired prominence for that paragraph could be assured either by placing it in the first or in the last position.

24. The order of preambular paragraphs received some consideration also at the 13th meeting, on 24 January 1992. The Chairman-Rapporteur said that the capital letters which identified each paragraph would not appear in the final text and, unless the order could be agreed upon, the preamble would be reported as it appeared in CRP.13/Rev.1.

25. In the course of the discussion that followed, no new proposals regarding the ordering of preambular paragraphs were made.

Consideration of CRP.6, CRP.7 and CRP.8

26. At the 4th meeting on 14 January 1992, the Chairman of the informal drafting group recommended the adoption of paragraphs A, H, B, I and C of the preamble as contained in CRP. 6, 7 and 8. The text thereof read as follows:

CRP.6

"A

"Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and stressing the paramount importance of achieving international cooperation to fulfil this obligation, according to the United Nations Charter."

CRP.7

"H

"Recalling the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of [universally recognized] human rights and fundamental freedoms for all persons in all countries of the world.

B

"Reaffirming the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system.

I

"Reaffirming further the importance of regional human rights instruments in the international efforts to promote universal respect for and observance of human rights and fundamental freedoms."

CRP.8

"C

"Stressing that each State has the prime responsibility and duty to promote and protect [universally recognized] human rights and fundamental freedoms."

After a brief discussion the texts contained in CRP. 6, 7 and 8 were adopted at first reading.

27. With regard to preambular paragraph C, as adopted, the delegation of Cuba stated that the words "responsibility and duty" should be understood as referring to the activities within the territory of each State.

Consideration of CRP. 9 and CRP. 10

28. At the 5th meeting, on 15 January, the chairman of the informal drafting group introduced CRP.9 and CRP.10, which contained the agreed texts of, respectively, preambular paragraphs G and E and read as follows:

CRP.9

"G

"Recognizing the right and the responsibility of individuals, groups and associations to promote respect for, and foster knowledge of, human rights and fundamental freedoms at the national and international level."

CRP.10

"E

"Reiterating that all human rights and fundamental freedoms are indivisible and interdependent, without prejudice to the implementation of each of these rights and freedoms".

29. The Chairman-Rapporteur stated that, for editorial reasons, he might later propose replacing the word "recognizing" in CRP.9. The delegation of Norway agreed that that might be useful. CRP.9 and CRP.10 were then adopted on first reading.

30. The observer for the International Commission of Jurists said that it was the understanding of his delegation that the words "to promote respect for" in CRP.9 included the notion of respect through effective implementation or respect in practice, and not just respect in principle or respect conceptually. It was also felt by that delegation that the term "to foster knowledge" carried with it the connotation of widespread dissemination, not just theoretical knowledge or knowledge within academic and governmental circles. The Chairman-Rapporteur expressed the hope that that understanding would be widely shared.

31. The delegation of Cuba stated, with reference to paragraph G, that the words "foster knowledge of" were to be interpreted as in no way contradicting the provisions of applicable provisions of the respective national legislation and/or norms of international law; including those governing the utilization of the mass media, particularly those referring to radio and television broadcasts. The Cuban delegation also reaffirmed its opinion that there should be a link between paragraph G and paragraph C.

32. Referring to the formulation of preambular paragraph E as adopted, the representatives of the United Kingdom and the United States of America stated their delegations' view that while human rights were interrelated, they were not necessarily interdependent. The delegations did, however, accept the

paragraph as a compromise, but reserved the right to return to paragraph E as a whole at the second reading. The delegation of the United Kingdom explained that all human rights were of equal importance, and that as a result the question of the relationship between rights should not be used as an excuse to make implementation of one right or set of rights dependent on another. In relation to the second part of paragraph E it seemed to the delegation of the United Kingdom that from a drafting point of view the wording could be improved to make clearer the obligation on States to implement human rights and fundamental freedoms.

33. The delegation of the United States of America noted that the clear intent of paragraph E was that the close relationship between different human rights and fundamental freedoms did not affect States' responsibility to promote and protect each right and freedom. The language could make that point more clearly and, like the delegation of the United Kingdom, the delegation of the United States of America reserved its right to return to it at the second reading.

Consideration of CRP.12

34. At the 5th meeting, on 15 January, the observer for the International Commission of Jurists expressed the opinion that preambular paragraph F was not needed at all in the declaration. Some other delegations, including Cuba, Syria and China, opposed that view. The issue was referred to the informal drafting group.

35. At the 6th meeting, on 16 January, the chairman of the informal drafting group introduced CRP.12, in which the following text of preambular paragraph F was proposed for adoption:

"F

"Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance with international human rights instruments."

36. The observer delegation of Amnesty International suggested that the phrase "with international human rights instruments" should read "with international human rights commitments", with the understanding that it would not insist if other delegations opposed the change.

37. The observer delegation of Norway stated that in order to be consistent with the language of the text, the phrase should read as "commitments and obligations". The delegation of the Russian Federation, while supporting the change of the wording, expressed its preference for replacing the word "commitments" with "obligations". The Chairman noted that the Working Group appeared to be divided on that issue, and, consequently, favoured the adoption of the phrase in its original form. The Working Group then adopted the text contained in CRP.12 on first reading.

Consideration of CRP.14

38. At the 8th meeting, on 20 January, the chairman of the informal drafting group reported that the group had drafted a text of preambular paragraph D, contained in CRP 14, and reading as follows:

> "Acknowledging the important role of international cooperation for and in the valuable work of individuals, groups and associations in contributing to the effective elimination of all mass, flagrant or systematic violations of the human rights and fundamental freedoms of peoples and individuals, such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity, and from refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources."

39. The Chairman mentioned that CRP 14 was a compromise text. It was subsequently adopted by the Working Group in first reading. A number of delegations thereupon stated their positions on paragraph D as adopted.

40. In the view of the delegation of Canada, the situations covered in paragraph D did not necessarily result in massive, flagrant or systematic violations of human rights and fundamental freedoms. It was also understood that the situations described did not deserve special attention and should not deserve priority among human rights violations.

41. The delegation of the United Kingdom stated its view that international cooperation was important for the elimination of violations of human rights. Therefore, the delegation of the United Kingdom was concerned that paragraph D should not be misinterpreted in any way to imply a hierarchy of human rights violations according to their nature or scale. Further, it was the view of the delegation of the United Kingdom that gross, mass or systematic violations of human rights did not necessarily result from all the situations listed in paragraph D.

42. The delegation of China said that although it had no disagreement or objection to the text of preambular paragraph D as adopted, it felt that, in view of certain differences from the original text, the main importance should be attached to the role of international cooperation in the field of promotion and protection of human rights and fundamental freedoms.

43. The delegation of Portugal considered that that paragraph could be reduced to its nuclear ideas, stating only that "in international cooperation in the field of human rights special attention should be given to the elimination of violations of human rights"; in fact, by including a list of violations of human rights which would never be exhaustive, other important violations (such as torture, forced disappearances and summary or arbitrary executions) were necessarily being excluded, and at the same time the impression was being given that a hierarchy was being established between different violations of human rights, which should also be avoided.

44. The delegation of Germany said that it had consented to the adoption of article D of the preamble on the understanding that that article was not intended to establish any kind of priority as regards the effective elimination of violations of human rights. In the delegation's view the discussions in the informal drafting group had shown the clear desire of all its members that all kinds of violations of human rights, be they of a mass, flagrant or systematic character or not, were to be effectively eliminated, including, of course, those that were not explicitly mentioned in the article. The delegation of Germany had the impression, however, that the wording of the text it had consented to in order to pave the way for its adoption on first reading, could reflect that idea more accurately. The delegation thus reserved its right to propose, on second reading, a formula that took those considerations into account.

45. The delegation of the Syrian Arab Republic expressed its surprise at the position taken by some delegations that the text did not properly address the full range of situations involving violations of human rights.

46. The representative of Cuba reiterated that it was a compromise text which could not satisfy all delegations. He reserved the right of his delegation to make further proposals to the text during the second reading.

47. The delegation of Australia wished to associate itself with the comments made earlier by the delegations of Norway, Canada, the United Kingdom and Germany. The delegation did not believe it desirable to order human rights in categories in any hierarchy and took the view that the type of violations listed in paragraph D did not in all cases lead to or involve violations which could be described as mass, flagrant or systematic. It was also the view of the Australian delegation that mass, flagrant or systematic violations could result from other causes not listed in the paragraph. The delegation of Australia saw the text as a compromise which it could support.

48. The delegation of the United States of America expressed its complete agreement with those delegations that had already made clear that paragraph D was not intended to set priorities or to indicate that all situations listed necessarily resulted in mass, flagrant or systematic violations of human rights. His delegation agreed with the delegation of Germany and also reserved its position until the second reading.

49. The observer delegation of the International Commission of Jurists said that, whatever the language adopted, it was for the victims themselves, as well as for human rights defenders, to decide which human rights violations were more deserving of their attention at any one time.

50. The delegation of France underlined the efforts made by the informal drafting group in drafting the text of paragraph D. However it reserved its right to make observations at the second reading. The delegation shared the view of the observer delegation of the International Commission of Jurists that it was the human rights defenders and the victims of human rights violations who should indicate the situations in which they considered there had been violations of their human rights. The delegation of Austria supported the compromise text of paragraph D and stated that the necessary improvements could be made at the second reading.

51. The delegation of Austria supported the compromise text of paragraph D and stated that the necessary improvements could be made at the second reading. The list of situations involving violations of human rights was not exhaustive. Also, such situations did not automatically lead to human rights violations.

52. The delegations of Colombia and Peru requested that the English words "organs of society" be translated into Spanish as "instituciones" throughout the text of the declaration.

Further remarks on the preamble

53. The following statement relating to the preambular paragraphs as a whole was submitted by the delegation of the United Kingdom:

> "In the view of the delegation of the United Kingdom the preambular paragraphs should be as simple and straightforward as possible, they should focus on the core concepts in the draft declaration as reflected in preambular paragraphs C and G. The delegation of the United Kingdom reserves the right to return to the question of the substance of the preamble as a whole at second reading."

Chapter I

54. At the 6th meeting, on 16 January 1992, the Chairman-Rapporteur introduced CRP.4 containing his proposal regarding the order of paragraphs in chapter I, which had not been decided the previous year. Regarding paragraph C, the text of which was in curved and square brackets (indicating that it had not been discussed), the Chairman-Rapporteur informed the Working Group that the delegation of Cuba had agreed to postpone the discussion on that paragraph until chapter V was discussed. Subsequently, after agreement had been reached on the relevant part of chapter V, the delegation of Cuba withdrew its proposal for a paragraph C to chapter I (see para. 114).

55. The Working Group continued its consideration of chapter I at its 8th meeting on 20 January 1992. The chairman of the informal drafting group reported that that group had agreed to delete the capital letters as paragraph headings and replace them with the word "Article". In addition, it had agreed to separate the old paragraph B into two independent articles. The informal drafting group also recommended that the square brackets around "individually or in association with others" be deleted. The chairman of the informal drafting group further reported that the ordering of articles in Chapter I had yet to be finalized.

56. At the same meeting, the Working Group adopted the above-mentioned recommendations of the informal drafting group relating to chapter I.

57. At the 13th meeting, on 24 January 1992, the Chairman noted that no agreement had yet been reached on a new order of the paragraphs of chapter I. He would therefore repeat them in the order in which they appeared in CRP.4.

Chapter II

58. At the 6th meeting, on 16 January 1992, the Working Group took up consideration of chapter II and promptly agreed on the deletion of the title, a remnant from past sessions.

59. With respect to paragraphs III and IV, the Chairman recalled that those two paragraphs were still in brackets because, as recorded in the footnote on page 27 of the report of the Working Group on its 1989 session (E/CN.4/1989/45), three delegations (those of Bulgaria, the German Democratic Republic and the Soviet Union) had originally expressed reservations on those paragraphs. The previous year, two of those reservations had been withdrawn but (as explained in footnote 3 of annex II to E/CN.4/1991/57) the delegation of the Union of Soviet Socialist Republics had considered that those paragraphs required further discussion. The Chairman was now informed by the delegation of the Russian Federation that it did not maintain that position. It was therefore his understanding that the Group could proceed on the basis that the round brackets were no longer there.

60. That interpretation was shared by several delegations but was not acceptable to others.

61. Also in connection with those paragraphs, the representative of Cuba expressed the reservation of his delegation with regard to the expressions "regardless of frontiers" and "the use of media" in paragraph III and "through measures" in square brackets in paragraph IV.

62. The Working Group continued its consideration of chapter II at its 8th meeting, on 20 January 1992. The chairman of the informal drafting group reported that the group had agreed to replace each heading labelled "Paragraph" with the label "Article" and to replace the roman numerals with arabic ones. The informal drafting group had decided to introduce square brackets around the words "universally recognized" in old paragraph I. Owing to lack of agreement, the square brackets around the word "their" would remain. Regarding old paragraph II (a), which now became article 2 (a), the Group had reached agreement on a slightly amended text. The following changes were proposed: (i) delete the square brackets; (ii) insert the words "having full" after the word "including"; and (iii) replace the phrase "on the means by which" with "as to how".

63. At the same meeting, the Working Group adopted the above-mentioned recommendations of the informal drafting group relating to chapter II.

64. The chairman of the informal drafting group indicated that one delegation had informed him that it had altered its position regarding article 2 (b) in chapter II.

65. The Chairman-Rapporteur drew the attention of the Working Group to the fact that old paragraphs II (b), V and VI of chapter II had been already adopted by the Group at first reading. He referred in that connection to annex I of the previous year's report of the Working Group which contained texts provisionally adopted by the Working Group on first reading.

66. In the view of the representative of Cuba, a close link existed between old paragraph II (b) and old paragraphs III and IV, which the Working Group had decided to consider at a later stage. He therefore proposed postponing the discussion of old paragraph II (b) until the discussion of articles 3 and 4 was over and reserved the right of his delegation to return to paragraph II (b) at that time.

67. At the 10th meeting, on 22 January 1992, the chairman of the informal drafting group reported that that group had two proposals for chapter II contained in CRP.15. The first proposal consisted of a new article 3, which read as follows:

> "Everyone has the right, individually and in association with others, to study, discuss and form opinions as to whether these rights and freedoms are observed, both in law and in practice [regardless of frontiers, and to solicit public attention on these matters]".

68. After the Chairman-Rapporteur's suggestion that the Working Group should not spend too much time on the text in square brackets at that stage, some delegations briefly expressed their views on the matter. The delegation of Colombia proposed the deletion of the words "regardless of frontiers". The delegations of Syria and Portugal agreed that the phrase "to solicit public attention on these matters" was beneficial, but they felt it might be better placed in chapter V. That view was shared by the delegation of France.

69. The delegation of Portugal also stated that it considered that "regardless of frontiers" should be retained, since it reflected an important idea, often reaffirmed by various international instruments in the field of human rights, when referring to freedom of opinion and expression.

70. New article 3 as proposed by the informal drafting group was adopted.

71. The chairman of the informal drafting group then proposed that article 4 of chapter II should be deleted, because the idea it contained was adequately covered in other human rights instruments. The Working Group agreed to delete article 4 and decided to renumber the subsequent articles of chapter II accordingly.

72. At the 13th meeting, on 24 January 1992, the Working Group again took up consideration of chapter II. The Chairman-Rapporteur introduced CRP.19 which contained a different formulation of article 1, proposed in an attempt to find consensus. The text read as follows:

> "All persons have the right to know, and, individually as well as together with others, to be informed about, and to make known their rights and freedoms and those of others."

73. The text of article 3 of chapter II contained in CRP.18 was also reformulated by the Chairman-Rapporteur in CRP.20 in order to avoid the use of square brackets. CRP.20 read as follows:

> "Everyone has the right, individually and in association with others, to study, discuss and form opinions as to whether these rights and freedoms

are observed, both in law and in practice, in their own country and elsewhere, and to solicit public attention on these matters."

74. At the 14th meeting, on 24 January 1992, the Working Group resumed its consideration of CRP.19 and CRP.20. With regard to CRP.19, the delegation of Cuba proposed to replace the word "others" at the end of the text by "all other members of the community". The proposal did not meet with the agreement of other delegations. It was agreed that the two alternatives would appear in the first reading text. With regards to CRP.20, the delegation of Cuba proposed to put a full stop after the word "practice" and to delete the rest of the sentence. That proposal was also not supported. It was decided to put in square brackets the last part of the text in CRP.20, beginning with the words "in their own country".

75. The delegation of Cuba subsequently submitted the following comments with regard to articles 1 and 3 of chapter II:

Article 1:

The words "to be informed about and to make known their [...] human rights and fundamental freedoms" were to be interpreted as in no way contradicting the provisions of applicable provisions of the respective national legislation and/or norms of international law; including those governing the utilization of the mass media, particularly those referring to radio and television broadcasts.

Article 3:

The interpretation of the words "form opinions" should be the same as that expressed above with respect to article 1.

Chapter III

76. The Working Group took up the question of financial contributions for the activities of individuals and organizations concerned with the promotion of human rights ("funding") at its 7th meeting on 17 January 1992. It was recalled by the Chairman-Rapporteur that that matter had been among those issues extensively discussed at the 1990 and 1991 sessions of the Working Group but on which texts had not been agreed. The attention of participants was drawn to paragraphs 69 to 75 and to annex III of the report of the 1991 session of the Working Group (E/CN.4/1991/57), which contained a full account of the discussion held on that issue.

77. It was also recalled that two proposals relating to the question of funding had been introduced at the 1991 session by the delegations of Portugal and Sweden (E/CN.4/1991/WG.6/CRP.11) and by the delegation of Cuba (E/CN.4/1991/WG.6/CRP.14), which had not been further discussed at that session. Both proposals were included in document E/CN.4/1991/57.

78. The text proposed by the delegations of Portugal and Sweden referred to chapter III, article 1, and read as follows:

"(d) To solicit, receive and utilize for the purpose of promoting and protecting [universally recognized] human rights and fundamental freedoms voluntary financial contributions."

79. The text proposed by the delegation of Cuba was intended to be placed at the end of chapter III and read as follows:

> "For the purpose of helping to ensure the necessary independence and freedom of action in their activities directed to the promotion and protection of [universally recognized] human rights and fundamental freedoms, individuals, groups and institutions shall solely employ for such activities funds and resources deriving from sources domiciled in the country in which the activities are to be undertaken. All remittances of such funds or other resources from abroad [from foreign sources?] shall be subject, on a non-discriminatory basis, to the national regulations applicable to such transactions in the country in question."

80. At the invitation of the Chairman, the delegations of Portugal and Cuba made statements relating to the status of the proposals they had made at the 1991 session.

81. The representative of Portugal pointed out that the thrust of the Portuguese/Swedish proposal in 1991 was to reiterate that individuals and groups should not be prevented from fund-raising activities. She further indicated that that proposal still stood.

82. The representative of Cuba stated that the question of external funding had important legal, practical and moral aspects. Referring to the 1991 proposal of his delegation, he pointed out that that proposal at no time implied the prohibition for individuals and groups concerned in the promotion and protection of human rights to use financial aid or funds. However, their fund-raising activities could not be an exception to what was established by national regulations regarding such issues. The representative of Cuba reaffirmed his delegation's position on that issue as laid down in paragraph 73 of the report of the Working Group on its 1991 session.

83. The Chairman-Rapporteur noted that there had been a large degree of common ground in those two proposals that could enable the informal drafting group to achieve a speedy agreement on that issue.

84. The delegation of China recalled that besides the Portuguese/Swedish and Cuban proposals on the issue of funding, other options had also been proposed, including the deletion of that paragraph. The question of funding had too many aspects, which could hardly be summarized in one single paragraph. However, if other delegations concurred on the necessity of continuing that drafting exercise, the delegation of China would like to hear any constructive proposal, although its preference remained to delete the paragraph altogether. Moreover, the paragraphs on funding, if any, should be a separate article rather than a part of article 1 of chapter III.

85. The delegations of the United Kingdom and of Canada, having underlined the importance of the issue, spoke in favour of retaining the paragraph in the body of the draft declaration.

86. At the 9th meeting of the Working Group, on 21 January 1991, the chairman of the informal drafting group reported that that group had started consideration of the various proposals on funding but, owing to the extremely complicated character of the issue, both politically and legally, it had been unable to reach immediate agreement. The matter therefore required further reflection and consideration.

87. At the 12th meeting, on 23 January 1992, the chairman of the informal drafting group orally proposed the following text on funding, which had been discussed but not agreed upon in the drafting group:

> "In order to guarantee the independence and freedom of action in their activities, individuals, groups and associations shall have the right to solicit, receive and utilize voluntary financial and other contributions, for the sole purpose of promoting and protecting [universally recognized] human rights and fundamental freedoms.
>
> "Such contributions from foreign sources shall be subject, on a non-discriminatory basis, to the national legislation as defined in chapter V A-bis".

That text was later reproduced as article 4 of chapter III in CRP.18.

88. At the 13th meeting, on 24 January 1992, the Chairman-Rapporteur introduced the text contained in CRP.21, which presented an alternative version of the second sentence of article 4 of chapter III and sought to address the concerns expressed by all delegations. The text read as follows:

> "Such contributions from external sources shall be subject, on a non-discriminatory basis, to the national legislation generally applicable to the entry of funds, goods and services, but such legislation shall not be applied in such a manner as to frustrate the application of the contributions to the promotion and the protection of universally recognized human rights and fundamental freedoms."

89. At the 14th meeting, on 24 January 1992, the Working Group continued its consideration of article 4 of chapter III as amended by CRP.21. Several delegations proposed amendments to the text and/or expressed their reservations with regard to that article.

90. The delegation of Cuba proposed the following amendments: to insert the word "applicable" before "national legislation" in CRP.21; to replace "shall" by "should"; to maintain the original words "foreign sources" instead of "external sources"; to delete the word "generally", and to put a full stop in the second paragraph after the words "national legislation".

91. The representative of China expressed certain reservations with regard to CRP.21 since, in the view of his delegation, it introduced unreasonable restrictions on national legislation. The delegation of China also recorded its reservations on the words "other contributions" in the first paragraph of the text concerning funding.

92. The representative of the United States expressed support for the initial Portuguese/Swedish proposal, which most closely agreed with the language already adopted by the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief proclaimed by the General Assembly in its resolution 36/55 of 25 November 1981.

93. The delegation of Portugal suggested that in order to avoid any contradiction between the first and the second parts of CRP.21, the word "but" should be replaced by "and". That amendment was accepted by the Working Group.

94. The observer delegation of Amnesty International proposed as a compromise to delete the last part of CRP.21 altogether, starting with the word "but", if that would result in consensus. He also proposed to replace "from foreign sources" by "from abroad". The last amendment was accepted by the Working Group.

95. The delegation of Colombia, supported by others, suggested that the word "generally" in CRP.21 should be deleted since it was meaningless from the legal point of view. Other delegations thought it was meaningful and should be retained.

96. It was finally decided to maintain the second part of CRP.21 in the first reading text, but to place it in square brackets starting with the words "and such legislation shall not..." and to include the amendments proposed by the delegation of Cuba and other delegations as alternatives.

97. The delegation of the Islamic Republic of Iran expressed its reservations with regard to the whole text of CRP.21.

98. At the 15th meeting on 18 February, 1992, during the discussion of the draft report, the delegation of China recalled that it had repeatedly expressed reservations in the informal drafting group about the first sentence of article 4 as a whole, as well as about the words "other contributions". It also pointed out that, without the second sentence, the first sentence applied to financial contributions from external, as well as domestic sources. He insisted that the first sentence be placed in square brackets in the first reading text.

99. The delegations of Portugal, France and the Russian Federation opposed that proposal. They said that, in their view, during the discussion of article 4 of chapter III no suggestion had been made to include paragraph 1 between brackets and that such an inclusion would give a wrong picture of the discussion which had taken place in the drafting group and in the plenary meeting.

100. The delegations of Cuba and Iran supported the Chinese proposal. The chairman of the informal drafting group (the observer for Norway), expressed his view at the request of the Chairman-Rapporteur. He suggested that there was no alternative but to place the first sentence in square brackets with an appropriate notation on the facing page. The Chairman-Rapporteur ruled that that would be done.

Consideration of the proposal of Turkey in CRP.11

101. At the 7th meeting, on 17 January 1992, the observer delegation of Turkey said that it had agreed, in response to the wishes of other delegations, not to proceed with its proposal (CRP.2) for the preamble, but to try to reflect that idea in chapter III. The delegation then introduced its proposal relating to article 3 of chapter III, contained in CRP.11. The proposed text read as follows:

> "Everyone has the right, individually and in association with others, to oppose through peaceful means activities and acts perpetrated by any State, group or person and aimed at the destruction of human rights and fundamental freedoms".

That text was referred to the informal drafting group.

102. At its 11th meeting, on 23 January, the Working Group resumed its consideration of CRP.11.

103. The Chairman-Rapporteur stated that his understanding of the Turkish proposal was that there had been a wish to include in article 3 a reference to the activities carried out not only by a State, but also by groups and persons. Therefore, the proposal was more an addition to than an alteration of the previously adopted text. He proposed that an addition to that effect could be formulated and added at the end of existing article 3.

104. The observer for Amnesty International expressed the view that it was not so much a question of the need to ascertain a right; more important was that such a right could be properly protected. He felt that the idea contained in CRP.11 could be better placed in chapter IV.

105. Consideration of that issue was again referred to the informal drafting group.

106. At the 13th meeting, on 24 January, the chairman of the informal drafting group informed the Working Group that agreement had not been achieved on the proposal of the delegation of Turkey contained in CRP.11. Since the delegation of Turkey had expressed its wish to maintain its proposal, some delegations stated that it would be appropriate to discuss the proposal during the second reading, owing to the lack of time and failure to reach an agreement.

107. The representative of Turkey said that if the text of CRP.11 was not acceptable to the Working Group he would submit another proposal: to add at the end of article 3 as it stood in CRP.18 the words "perpetrated by States, groups, associations or individuals".

108. That proposal was opposed by the delegations of the United Kingdom and Norway on the assumption that the Working Group should try to establish the text with as few square brackets as possible.

109. The delegation of Turkey said that it would enter a reservation to chapter III in the first reading text and maintained the proposal it had put forward in CRP.11, hoping that the latter could be discussed in a more thorough manner in second reading. The Chairman said that that proposal would be reproduced in the first reading text as an alternative text.

Chapter IV

110. At the 10th meeting, on 22 January 1992, the delegation of the United Kingdom, supported by the delegation of France, proposed the deletion of the word "serious" in square brackets in article 3 (c) of chapter IV. The Working Group agreed with that proposal.

111. At the 13th meeting, on 24 January 1992, the Chairman-Rapporteur, introducing CRP.18, said that the text of chapter IV had been agreed upon already. The representative of Cuba objected to that statement and recalled that during the previous year's session, his delegation had submitted to the Working Group a proposal contained in E/CN.4/1991/WG.6/CRP.6 and identified as article X in the text of chapter IV. That proposal, not considered during the 1991 session of the Working Group, appeared in annexes IV and VI to document E/CN.4/1991/57. He reserved the right to reintroduce that proposal at a later date.

112. The following statement relating to article 2 of chapter IV was submitted by the delegation of the United Kingdom:

> "It is the opinion of the delegation of the United Kingdom that in the event of an effective remedy being available through a competent legislative or other authority provided for by the legal system of the State, there should be no general duty to provide a further right such as that referred to in chapter IV, article 2 (b) and it is the understanding of the delegation of the United Kingdom that the text of article 2 when considered at second reading would be redrafted to reflect these points more adequately".

Chapter V

113. At the 9th meeting, on 21 January, the representative of Senegal informed the Working Group of the decision of his Government to withdraw the proposals of the delegation of Senegal for chapter V relating to the issue of rights and responsibilities of individuals and groups, reproduced in annex V to document E/CN.4/1991/57.

114. At the same meeting, the representative of Cuba proposed that the question of the role of national legislation should be considered by the Working Group at one of its plenary meetings. In that connection, he could agree to deferring discussion of paragraph C of chapter I, proposed in 1991 by the delegation of Cuba, until the outcome was known on chapter V, at which time he would decide whether or not to maintain his proposal for chapter I.

115. At the 10th meeting, on 22 January, the chairman of the informal drafting group reported that the delegation of the Russian Federation had formally withdrawn the proposal of the former Union of Soviet Socialist Republics on the issue of duties and responsibilities (chapter V), identified as paragraph D in the previous year's report (E/CN.4/1991/57, annex VI).

116. The delegation of Cuba stressed that the importance of existing national legislation in each country should be emphasized in the declaration and recalled in that connection to the proposal made the previous year (E/CN.4/1991/WG.6/CRP.17/Rev.1) relating to chapter I. It further stated that that was on the understanding that the said national legislation was not in contradiction with purposes and principles of the United Nations, as was the case of the apartheid laws and regulations in effect in South Africa.

117. The Cuban delegation also stated that the declaration should not aim at creating some kind of "internal immunity". The observer for Amnesty International noted in that connection that at times national legislation contradicted international standards, as evidenced by the concern of the United Nations at apartheid.

118. The delegations of Austria, France, Norway, Sweden and the International Commission of Jurists expressed their belief that adequate reference to national legislation already existed in paragraph B of chapter V.

119. The observer for the International Commission of Jurists added that in a text which primarily sought to ensure openings for the promotion of human rights by individuals and groups, there was no need for specific limitations provisions. In his delegation's opinion, it would seem illogical to spell out restrictions that went beyond those found in other human rights instruments.

120. The delegation of Cuba said that paragraph B of chapter V did not cover all its concerns regarding the issue of national legislation, and that something other than article 29 (2) of the Universal Declaration of Human Rights was needed. The delegations of China and Syria expressed their desire to have the reference to the importance of national legislation reflected either in chapter V or or in chapter I.

121. The delegation of Portugal stated that the declaration was not intended to give national legislation the scope to determine how the instrument was to be applied. The delegations of the United Kingdom and Austria agreed with that point.

122. At the 12th meeting, on 23 January, the chairman of the informal drafting group introduced proposals contained in CRP.17. It was recommended that a new paragraph A bis be inserted after paragraph A of chapter V, and the Cuban proposal for paragraph C in chapter I be deleted. The proposed text of paragraph A bis read as follows:

> "Domestic law consistent with the United Nations Charter and other international obligations and commitments of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and

enjoyed, and within which all activities referred to in this declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted."

123. The Working Group adopted those recommendations of the informal drafting group.

124. The delegation of China stated that paragraph A bis could not be considered as a legal basis for expanding or restricting the scope of domestic law and expressed its understanding that that text would not be used for reducing the validity of national law and regulations.

125. The delegation of Cuba stated with regard to article A bis that nothing in that article might be construed as diminishing the validity of national legislation regulating other general issues such as importation/exportation, immigration, the utilization of the mass media and foreign currency control, nor as excluding the applicability thereof to the activities referred to in the declaration.

126. At the 13th meeting, on 24 January 1992, after the introduction of CRP.18, the Working Group resumed its consideration of chapter V. The Chairman introduced CRP.22, which offered an alternative version of paragraph A of chapter V in an attempt to find consensus. The text of CRP.22 read as follows:

"Nothing in the present declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations nor as restricting or derogating from the provisions of the Universal Declaration of Human Rights and the International Covenants on Human Rights or other international instruments in this field."

127. At the 14th meeting, on 24 January 1922, the Working Group took up consideration of CRP.22. The representative of Cuba wondered what was the meaning of replacing the word "and" by "or" at the end of the paragraph. He also noted, with regard to the word "derogating" that, legally speaking, it was not possible to derogate from the provisions of the Universal Declaration of Human Rights, but only from the Covenants.

128. The delegation of the United States of America proposed placing a full stop after the words "International Covenants on Human Rights".

129. The Rapporteur concluded that the last line of the paragraph should remain within square brackets, as it appeared in the previous year's report (E/CN.4/1991/57, annex VI, chap. V, A).

130. The chairman of the informal drafting group, at the invitation of the Chairman-Rapporteur, reported on the extensive discussions which had taken place in the informal group on the questions on "responsibilities". The Chairman emphasized that no consensus text had been established so far, but that there seemed to be broad agreement that a possible text could contain three main elements or ideas. He indicated that those were the lines along which he would pursue his efforts in trying to establish a text which could meet with the approval of all the members of the informal drafting group.

131. A first element was a reproduction of article 29, paragraph 1 of the Universal Declaration of Human Rights. In the discussion in the drafting group, that idea was called "X":

> "Everyone has duties to the community in which alone the free and full development of his personality is possible."

132. He added, that to the best of his understanding, that element was not considered to be controversial by the drafting group.

133. The next idea or element under consideration in the drafting group was a text which focused on the respect of every individual for the rights and freedoms of other members of the community. The Chairman read out the following text, preliminarily called "Y":

> "Everyone, individually and in association with others, should have respect and promote respect for the rights, freedoms, identity and human dignity of all other members of the community, as well as the identity of the community as a whole."

134. It was the understanding of the chairman that that text also had been brought to a stage where consensus was very close.

135. The chairman of the informal drafting group then turned to the final element of a consolidated text on "responsibilities". He read out to the Working Group a text, on which the drafting group had been working extensively. The text was given the title "Z":

> "Everyone, individually and in association with others, should strive for the establishment of a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized."

136. The chairman said that, in his view, agreement to the text read out was mainly dependent on a single operative word. Some delegations participating in the drafting exercise had felt that the word "should" was too strong. Those delegations would have preferred to see the sentence turned into an entitlement rather than an obligation. Other delegations opposed such a weakening of the text. The chairman held the position that further discussion of that provision should focus on that particular problem only.

137. The chairman of the Informal drafting group ended his report by reminding the Working Group that, in the view of some delegations, the three elements explained were parts of a totality, and that it would not be possible to reach consensus on fragments of the total package.

138. Those texts were later circulated as CRP.18.

139. At the 13th meeting, on 24 January 1992, the Chairman introduced CRP.23, which contained an alternative version to paragraph Z as drafted in CRP.18. The text of CRP.23 read as follows:

> "The establishment of a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized is the responsibility of everyone".

140. The Chairman noted that while there was no disagreement as to the terms of paragraph X, some delegations' agreement thereto was contingent on there also being agreement on paragraphs Y and Z. Moreover, those delegations had linked their agreement to the adoption of article Y as worded in CRP.18 to agreement being reached on paragraph Z.

141. In the case of adoption, the opinion of the Chairman was to merge X, Y and Z into a single paragraph which will be followed by paragraphs B, C, A and A bis.

142. The Working Group then moved to consideration of CRP.23. The delegations of Colombia and Cuba pointed out that in the Spanish translation the word "everyone" at the end of the text would be meaningless. The delegation of Cuba further proposed to replace the word "everyone" by the expression "all States, individuals, groups and organs of society". An alternative proposal of Cuba was to add, after the word "everyone", the expression "individually or in association with others". Those proposals were debated, but no agreement was reached. Owing to that situation, the delegation of Cuba expressed its preference for retaining in the first reading text the formulation of paragraphs Y and Z as proposed by his delegation.

143. Since there was no agreement on the proposed texts, the Chairman-Rapporteur said that paragraphs X, Y and Z would be placed together as one paragraph in square brackets, with the alternative proposals also being shown.

General issues

144. At the 12th meeting, on 23 January 1992, a discussion took place regarding the words "universally recognized", which had been placed in square brackets throughout the text. The delegation of Cuba observed that the terminology might be interpreted in a restrictive fashion, and further suggested that the words "universally recognized" be deleted. The representative of the United States of America said that if the term "universally recognized" was not included in the text, then it might be unclear what the phrase "human rights", standing alone, meant. He believed that it was necessary to have a discussion of what the phrase "human rights and fundamental freedoms" would represent. He suggested that detailed consideration might show that the term "universally recognized" could be removed in some places and left in others. The delegation of France added its view that the square brackets should be deleted and the term "universally recognized" retained as part of the text. Lastly, the Cuban delegation suggested, as an alternative, replacing "universally recognized" by "all". A proposal was made to refer the issue to the informal drafting group. However,

the chairman of the informal drafting group opposed that proposal and stated that it was not a drafting issue, but a matter of substance and of fundamental importance.

145. At the 13th meeting, on 24 January 1992, the Chairman-Rapporteur introduced CRP.18, a compilation of all texts discussed by the Working Group as of that date, not all of which had been approved. He then introduced CRP.19, 20, 21, 22 and 23. Those texts addressed each of the portions of the text on which agreement had not been reached. In each case, the Chairman-Rapporteur said he had tried to find a consensus text based on what had been said by all participants on the points at issue and in the light of his understanding of the general thrust of the draft declaration. It was likely that each delegation would still have a preference for a different formulation in one or more passages, but he invited the Working Group to consider CRP.18 as amended by CRP.19, 20, 21, 22 and 23 as a package and to leave the pursuit of such preferences until the second reading. The Chairman asked whether the Working Group was willing to adopt that package as the first reading text. The delegations of the Russian Federation and the United States of America agreed to join the consensus on that basis. The observer delegation of Turkey said that it could agree but it requested that its reservation on chapter III be registered in the report and that the Turkish proposal (CRP.11) be retained for consideration at the second reading. The delegations of Canada, the Czech and Slovak Republic, France, Portugal and the United Kingdom of Great Britain and Northern Ireland said that they were willing to join the consensus on that basis. The delegation of Cuba said it could not agree to the package.

146. At its 14th meeting, on 24 January, 1992 the Working Group addressed the Chairman's proposals, CRP.19 to 23, seriatim, with the outcome recorded earlier in the present report.

147. At the same meeting the Working Group discussed the format in which the resultant first reading text, including competing versions of the unagreed portions of the text, would be reported. That discussion was inconclusive. There was strong resistance to any format that would have the effect of giving prominence to the proposals of any delegation. The Chairman-Rapporteur said he would try both of the alternatives which had been suggested and submit the one which seemed to him most helpful to those who would have to consider the first reading text.

148. At the 15th meeting on 18 February 1992, the Working Group adopted the present report including the first reading text as set out in annex I.

Future work

149. At the 11th meeting, on 23 January, the Chairman-Rapporteur introduced CRP.16, which suggested a format for a non-exclusive list of points for consideration at the second reading to be included as an annex to the report. He encouraged all delegations to submit in writing their ideas and proposals for consideration during the second reading, in 1993, with a view to providing advance notice to other delegations. Failure to provide advance notice in that way would, of course, not preclude delegations making new proposals during the second reading.

150. Several delegations have submitted their proposals, which are reproduced in annex II to this report.

151. At the 15th meeting, on 18 February 1992, the Chairman-Rapporteur suggested that the Working Group should recommend to the Commission that the secretariat be asked to:

(a) Circulate the report, including the first reading text, to the Governments of all States Members of the United Nations, to competent specialized agencies, and to interested intergovernmental and non-governmental organizations, with an invitation to submit written comments for consideration by the Working Group at its next session;

(b) Undertake a technical review of the text in accordance with the guidelines contained in annex III to the present report and distribute the results to all Governments and to those non-governmental organizations which had participated in the Working Group.

152. He also suggested that the Working Group request that it meet for 10 working days in 1993 prior to the forty-ninth session of the Commission on Human Rights with a view to completing the second reading at that time and submitting the draft declaration for adoption by the Commission at its forty-ninth session.

153. Those proposals were accepted with the following modifications:

(a) The report and first reading text should also be circulated to the chairmen of treaty bodies;

(b) The secretariat having advised that the technical review would be completed in less than two weeks, the results of the technical review should be circulated with the first reading text, not separately and later. (Further information became available after the closure of the session that the technical review would take significantly longer.)

154. The Chairman-Rapporteur thanked all participants for their contributions and declared the seventh session of the Working Group to be concluded.

Annex I

First reading text of the

"Declaration on the right and responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms"

Preamble

The General Assembly,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and stressing the paramount importance of achieving international cooperation to fulfil this obligation, according to the United Nations Charter,

Recalling the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of [universally recognized] human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system,

Reaffirming further the importance of regional human rights instruments in the international efforts to promote universal respect for and observance of human rights and fundamental freedoms,

Acknowledging the important role of international cooperation for and the valuable work of individuals, groups and associations in contributing to the effective elimination of all mass, flagrant or systematic violations of the human rights and fundamental freedoms of peoples and individuals, such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity, and from refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are indivisible and interdependent, without prejudice to the implementation of each of these rights and freedoms,

Stressing that each State has the prime responsibility and duty to promote and protect [universally recognized] human rights and fundamental freedoms,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for, and foster knowledge of, human rights and fundamental freedoms at the national and international level.

Preamble

The order of paragraphs in the preamble was not agreed.

There was agreement that:

(a) The paragraphs presented here as the second, third and fourth should appear together and in this order;

(b) The paragraphs presented here as the eighth and ninth should appear together.

Several delegations proposed that the preamble should proceed from general considerations to the particular.

There was widespread support for the paragraph presented here as the last being placed in a prominent position, e.g. either first or last.

[universally recognized] appears 14 times in the text.

The competing proposals were:

1. Delete the bracketed words in all 14 places.

2. "all" in all 14 places.

3. Either 1 or 4 depending on context.

4. Retain "universally recognized" in all 14 places.

Declares:

Chapter I

Article 1

No one shall participate in violating the [universally recognized] human rights and fundamental freedoms of others, and no one shall be subject to punishment or adverse action of any kind for refusing individually or in association with others, to violate or otherwise be associated with violations of [universally recognized] human rights and fundamental freedoms.

Article 2

Each State has a prime responsibility and duty to promote and protect [universally recognized] human rights and fundamental freedoms, inter alia by adopting such legislative, administrative and other steps as may be necessary to create the social and political conditions and legal guarantees required to ensure that all persons, individually and in association with others, are able to enjoy these rights and freedoms in practice.

Article 3

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of [universally recognized] human rights and fundamental freedoms at the national and international levels. Each State shall adopt such legislative, administrative and other steps as much as may be necessary to ensure that the rights and freedoms referred to in this declaration are effectively guaranteed.

Chapter II

Article 1

All persons have the right to know, and, individually as well as together with others, to be informed about, and to make known their rights and freedoms and those of [others].

Article 2

Everyone has the right, individually as well as together with others,

(a) To seek, obtain, receive and hold information about these rights and freedoms, including having full access to information as to how these rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) To publish, impart or disseminate freely to others views, information and knowledge of [universally recognized] human rights and fundamental freedoms.

Chapter I

The order of the articles of chapter I was not discussed.

Chapter II

Article 1

The competing proposals were:

1. "others".

2. "all other members of the community".

Article 3

Everyone has the right, individually and in association with others, to study, discuss and form opinions as to whether these rights and freedoms are observed, both in law and in practice, [in their own country and elsewhere, and to solicit public attention on these matters].

Article 4

Everyone has the right to develop and discuss new human rights ideas and principles, and to advocate their universal acceptance.

Article 5

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include:

(a) The publication and widespread distribution of national laws and regulations and of basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the State's periodic reports to the bodies established by the international human rights treaties to which it is a party, as well as the official report of these bodies.

3. The State has the responsibility to promote and improve the teaching of human rights and fundamental freedoms at all levels of education, and to encourage all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials to include appropriate elements of human rights teaching in their training programmes.

Chapter III

Article 1

For the purpose of promoting and protecting [universally recognized] human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

(a) To meet or assemble peacefully;

(b) To form, join and participate in non-governmental organizations, associations, or, where relevant, groups;

(c) To communicate with non-governmental or intergovernmental organizations.

Chapter II

Article 3

The competing proposals were:

1. Delete the words in square brackets.

2. Delete all words after "in their own country".

3. Retain the words in the brackets.

Article 2

Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the Government of his country and in the conduct of public affairs. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work which may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 3

[Everyone has the right, individually and in association with others, to participate in peaceful activities directed against violations of human rights and fundamental freedoms.]

Article 4

[In order to guarantee the independence and freedom of action in their activities, individuals, groups and associations [should] have the right to solicit, receive and utilize voluntary financial and other contributions, for the sole purpose of promoting and protecting [universally recognized] human rights and fundamental freedoms.]

[Such contributions from abroad shall be subject, on a non-discriminatory basis, to the national legislation generally applicable to the entry of funds, goods and services and such legislation shall not be applied in such a manner as to frustrate the application of the contributions to the promotion and protection of [universally recognized] human rights and fundamental freedoms.]

Chapter IV

Article 1

In the exercise of the right to promote and protect the human rights referred to in the present declaration, as well as in the exercise of other [universally recognized] human rights and fundamental freedoms, everyone has the right to protection and recourse to effective remedies in the event of violations of those rights.

Article 2

To this end, everyone has the right, inter alia, to:

(a) Draw public attention to violations of human rights and to complain about the policies and actions of individual officials and governmental bodies by petitions or other means to competent national judicial, administrative, or legislative authorities or any other competent authority provided for by the legal system of the State, as well as to any relevant competent international bodies;

Chapter III

Article 3

The competing proposals were:

1. Retain the words in the brackets.

2. Alternative text:

"Everyone has the right, individually and in association with others, to oppose through peaceful means activities and acts perpetrated by any State, group or person and aimed at the destruction of human rights and fundamental freedoms". (Unofficial English translation)

Article 4 (first sentence)

The competing proposals were:

1. Delete the word in square brackets.

2. Retain the word "should".

Some delegations reserved their position on all aspects of the first sentence and noted that it was linked to the unresolved issue of the second sentence.

Article 4 (second sentence)

The competing proposals were:

1. Delete the words in brackets.

2. "Such contributions from abroad shall be subject, on a non-discriminatory basis, to the applicable national legislation."

3. "Such contributions from abroad shall be subject, on a non-discriminatory basis, to the national legislation applicable to the entry of funds, goods and services."

4. Retain the words in the brackets.

(b) Complain to and have that complaint promptly reviewed in a public hearing and decided by an independent, impartial and competent judicial or other authority established by law;

(c) Obtain a just decision and award providing redress, including any compensation due as well as enforcement of the decision and award, all without undue delay;

(d) Attend such relevant hearings or proceedings or, as the case may be, trials to assess their fairness and compliance with national and international standards;

(e) Offer and provide assistance, including professionally qualified legal assistance, in defending [universally recognized] human rights and fundamental freedoms;

(f) Unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights in accordance with applicable international instruments and procedures.

Article 3

To the same end, each State shall, inter alia:

(a) Ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in this declaration;

(b) Encourage and support the development of further institutions for the promotion and protection of [universally recognized] human rights and fundamental freedoms in all territory under its jurisdiction, such as ombudsmen, human rights commissions and other appropriate mechanisms;

(c) Conduct or ensure that a prompt and impartial investigation or inquiry takes place whenever there is reasonable ground to believe that a violation of [universally recognized] human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 4

Individuals or groups whose professional or occupational activities may affect the enjoyment of [universally recognized] human rights and fundamental freedoms have, in the exercise of their profession or occupation, the right and responsibility to promote, respect and observe these rights and freedoms and the dignity and self-respect of every individual, as well as such national and international standards of professional or occupational conduct or ethics as may be applicable. This right and responsibility is also incumbent upon those who establish or supervise the implementation of such standards.

[No commentaries]

Chapter V

Article 1

Nothing in the present declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations nor as restricting or derogating from the provisions of the Universal Declaration of Human Rights and the International Covenants on Human Rights [and other international instruments in this field].

Article 2

Domestic law consistent with the United Nations Charter and other international obligations and commitments of the State in the field of human rights and fundamental freedoms, is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed, and within which all activities referred to in this declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 3

In the exercise of the rights and freedoms referred to in this declaration, everyone, acting individually or in association with others, shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society and in accordance with applicable international obligations and commitments.

Article 4

Nothing in the present declaration shall be interpreted as implying for any individual, group or organ of society the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in this declaration or at their limitations to a greater extent than is provided for in this declaration.

Article 5

[Everyone has duties to the community in which alone the free and full development of his personality is possible].

[Everyone, individually and in association with others, should have and promote respect for the rights, freedoms, identity and human dignity of all other members of the community, as well as for the identity of the community as a whole].

[The establishment of a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized is the responsibility of everyone].

Chapter V

The order of the articles of Chapter V was not discussed, except for the article presented here as 2, which it was agreed should follow the article presented here as 1.

Article 1

The competing proposals were:

1. Delete the words in the brackets.

2. Retain the words in the brackets.

Article 5

The competing proposals were:

1. Delete the last two sentences; retain the first sentence.

2. Retain the words in the brackets.

3. Retain the first two sentences; replace the third sentence by:

"Everyone, individually and in association with others, is entitled to strive for the establishment of a social and international order in which [universally recognized] human rights and fundamental freedoms can be fully realized."

4. Retain the words in the brackets and add at the end "individually or in association with others"

5. Retain the words in the brackets but, at the end, for "everyone" substitute "all States, groups, organs of society and individuals".

6. Replace the words in brackets by:

"Everyone has duties to the community in which alone the free and full development of his personality is possible.

Everyone, individually and in association with others should have respect and promote respect for the rights, freedoms, socio-cultural identity and human dignity of all other members of the community as well as for the social and cultural identity of the community as a whole.

Everyone, individually and in association with others, should strive for the establishment of a social and international order in which the rights and freedoms set forth in the Universal Declaration on Human Rights can be fully realized."

Annex II

COMPILATION OF PROPOSALS FOR THE SECOND READING

Explanatory Note: The body of the report includes several passages in which delegations foreshadowed points they proposed to raise at the second reading. The additional proposals in this annex were provided by delegations by way of information. Naturally, no delegation is committed to raising points foreshadowed in this way and likewise, all delegations remain free to raise during the second reading points which they have not foreshadowed at this stage.

CUBA

The following issues should be thoroughly discussed during the second reading:

1. The meaning, in the context of this declaration, of the words "organs of society", "individually or in associations with others", "responsibilities [of individuals, groups and organs of society]" and "universally recognized human rights and fundamental freedoms".

2. The scope and the nature of the duties that every individual has towards the community in which he/she lives, in accordance with article 29 of the Universal Declaration.

AUSTRALIA

Preamble

Delete the first, fifth, sixth and seventh paragraphs.

Chapter III, article 4

PORTUGAL AND SWEDEN

The text proposed by the delegations of Portugal and Sweden referred to Chapter III, article 1, and read as follows:

> "(d) To solicit, receive and utilize for the purpose of promoting and protecting [universally recognized] human rights and fundamental freedoms voluntary financial contributions."

CUBA

The text proposed by the delegation of Cuba was intended to be placed at the end of Chapter III and read as follows:

> "For the purpose of helping to ensure the necessary independence and freedom of action in their activities directed to the promotion and protection of [universally recognized] human rights and fundamental freedoms, individuals, groups and institutions shall solely employ for such activities funds and resources deriving from sources domiciled in the country in which the activities are to be undertaken. All remittances of such funds or other resources from abroad [from foreign sources?] shall be subject, on a non-discriminatory basis, to the national regulations applicable to such transactions in the country in question."

GERMANY

Chapter IV

The delegation of Germany would like to recall its statement already referred to in paragraph 78 of document E/CN.4/1991/57. Human rights directly protect the individual. The delegation of Germany is thus of the opinion that, in accordance with the relevant instruments for the protection of human rights, in the case of a violation of human rights the right to institute certain legal remedies (e.g. recourse to a court of law) is reserved to the holder of said rights. In order to reflect this more accurately in the text of Chapter IV, article 1, and the "chapeau" of article 2 should be amended accordingly. Those activities in article 2, however, which may also be carried out by third persons should be listed separately under a new introductory clause. It is the understanding of the delegation of Germany that the text of article 2 would be redrafted and re-ordered on second reading.

INTERNATIONAL COMMISSION OF JURISTS

Chapter IV

Article 3 (c). Addition:

"and to cooperate as necessary with any such investigation or enquiry".

Article 4. Addition:

"Each State shall strive to encourage and facilitate the exercise of this right and responsibility".

CANADA

Chapter V, article 5, second sentence

Everyone, individually and in association with others should have respect and promote respect for the rights, freedoms, identity and human dignity of all other members of the community, as well as the identity of the community as a whole.

Annex III

Technical review

Bearing in mind General Assembly resolution 41/120 and in accordance with United Nations technical standards and practices, the technical review of the draft declaration should:

1. Identify overlaps and repetititon between and within draft articles;

2. Harmonize the different language versions;

3. Check for consistency in the text, including the use of key terms and the use of gender-neutral language;

4. Make textual and editorial suggestions and recommendations as to how any overlaps or inconsistencies identified might be corrected by the Working Group before the submission of the draft declaration;

5. Compare the standards in the draft declaration with those in other widely-accepted human rights instruments.

The technical review should not enter into areas of substance but should be confined to the technical aspects of the draft.

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